

Misc Case No.703 of 2022

Order dated 18.06.2024

Today is fixed for order.

So the record is taken up for passing order.

Both parties file hazira.

Now the record is taken up for passing order in respect to the petition filed by the aggrieved person praying for interim maintenance.

1. The factual matrix of the Aggrieved person's case is to the effect that she got married with respondent No.1 on 20.11.2019 according to the Hindu rites and customs and at the time of marriage sufficient dowry including cash of Rs.2,50,000/- was exchanged as per the demand of the respondents. After the marriage the Aggrieved Person went to her matrimonial home and started staying with Respondent as husband and wife in her matrimonial home and during her period of wedlock she gave birth a female daughter on 19.08.2020. It is the further case of the aggrieved person that after few days of her marriage she was subjected physical and mental torture for the demand of additional dowry to the tune of Rs.10 lakhs and in the lieu she was subjected to physical and mental cruelty by the respondents. It is also the further case of the aggrieved person that on 09.10.2022 she was assaulted physically the respondents and was driven out from her matrimonial home along with her minor daughter and since then she has been staying at her parental home. It is the specific case of the aggrieved person that her daughter is suffering from Umbilical Hernia and she has no personal source of income and on the other hand, the respondent No.1 is a Safety Officer at Kuwait.

2. The Respondent appeared in the case and has been contesting the case by filing written objections and thereby the Respondent has specifically denied all the material allegations of the Aggrieved Person brought against him and inter alia stated that the Aggrieved Person left her matrimonial home out of her free will and he attempted to bring her back but the aggrieved person declined his proposal. Moreover, he is unemployed and has no earning at all.

3. In this case Respondent admitted the Aggrieved Person as his legally married wife and he is biological father of the minor daughter of the aggrieved person and so this point requires no further discussion.

4. At the very outset, Ld. Advocate for the Aggrieved Person submits before this Court that the Respondent subjected the Aggrieved Person with physical

and mental cruelty for the demand of additional dowry and she was also not taken proper care by her husband. On the other hand, Ld. Advocate for the Respondent vehemently raised objection and submits before this Court that the Aggrieved Person left her matrimonial home out of her free will and the Respondent attempted to bring the Aggrieved Person to his society but she declined his proposal. At this juncture it is pertinent to mention that all the issues may be raised during the argument are matter of evidence and so it cannot be decided at this stage.

It is pertinent to note that the respondent No.1 has categorically stated in his affidavit of assets and liabilities that presently, he is unemployed and has no income. Now, on careful scrutiny of the bank accounts statements of the respondent No.1 I find transaction of considerable amount in his two bank accounts statements namely State Bank of India being A/C No.30055899974 and Punjab National Bank being A/C No.2005000100199766. eg Rs.22,997/- credited on 16.05.2023 in his PNB Bank Account and apart from that Rs.15,000/-, Rs.10,000/- and Rs.30,000/- credited in the same account on different dates. On further scrutiny of his SBI Bank account statement I find that in this account also considerable amount has been credited in his favour. So, from his bank accounts statements it is quite clear that the respondent No.1 has sufficient income. In this case the respondent No.1 in order to defeat the claim of the aggrieved person stated himself as unemployed but the respondent No.1 being an able bodied person has to maintain his wife and his minor daughter.

It would not be out of place to mention that the daughter of the aggrieved person has been suffering from Umbilical Hernia and the medical documents filed in support of her contention also affirm her claim. So, the respondent No.1 being the father of the minor daughter of the aggrieved person is duty bound to bear her medical expenses.

5) In view of the discussion made herein above I am inclined to allow the present petition filed by the Aggrieved Person.

6) Hence, I proceed to pass the following Order:

Ordered

that the prayer of the Aggrieved Person for interim monetary allowance under Section 12 read with Sections 17/18/19/22/23 of the Protection of Women from Domestic Violence Act, and the same considered and allowed on contest.

The Respondent is hereby directed to pay interim monetary allowance to the tune of Rs.6,000/- for the aggrieved person and Rs.4,000/- for her minor daughter of the aggrieved person from the date of filing of this case and he is further directed to pay the monthly monetary allowance by 10th day of each succeeding English calendar month.

It is however, made clear that nothing of the observations made in this order shall have any effect on the trial and the trial shall be held independently.

That the petition is hereby disposed of.

Let a copy of this order be supplied to the aggrieved person free of cost.

To 19-09-2024 for evidence.

D/C

Judicial Magistrate,

2nd Court, Howrah.